

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LARRY WHETSTONE,)
)
Plaintiff,)
) C.A. No.: _____
v.)
)
MALONE BUSSING SERVICES,)
STEVE MALONE and) **JURY TRIAL DEMANDED**
TERESA DARDEN,)
)
Defendants.)
)

NOTICE OF REMOVAL

AND NOW, come Defendants, Malone Bussing Services, Steve Malone and Teresa Darden, by and through its undersigned counsel, and the law firm of Pion, Nerone, Girman, Winslow & Smith, P.C., and hereby removes the above-captioned lawsuit pursuant to 28 U.S.C. § 1441 *et seq.* from the Court of Common Pleas of Allegheny County, Pennsylvania where it has been assigned Civil Action No. GD-18-016961, and in support thereof, avers as follows:

1. Plaintiff Larry Whetstone initiated the instant lawsuit in the Court of Common Pleas of Allegheny County, Pennsylvania at Civil Action No. GD-18-016961. True and correct copies of all pleadings filed in the state court in the aforementioned matter are attached hereto as Exhibit "A".
2. Plaintiff is a resident of Pittsburgh, Allegheny County, Pennsylvania. (Complaint at ¶ 2)
3. Defendants Malone Bussing Services, Steve Malone, and Teresa Darden are headquartered in, or are residents of Cleveland, Tennessee.

4. Accordingly, there is diversity of citizenship between Plaintiff and Defendants, and diversity of citizenship existed at the time this civil action was filed and at the time of the filing of this Notice of Removal.

5. Plaintiff alleges various levels of personal injuries in his Complaint (*Id.* at ¶ 21) and that he “is 58 and intended to work for at least another 15 years earning at least \$55,000 annually plus bonuses” (*Id.* at ¶ 22g.) but “has been unable to work or drive a commercial vehicle since the date of the accident” (*Id.* at ¶ 22e.) and “has been diagnosed with … an inability to return to work as a result of the accident” (*Id.* at ¶ 22f.).

6. A fair reading of Plaintiff’s Complaint, with its inclusion of claims for personal injury, past and future earnings loss, as well as claims for punitive damages against each defendant (see Complaint, generally, and ¶¶ 28, 29, 41, and 42 and paragraph b. in Plaintiff’s Prayer for Relief), reveals an amount in controversy exceeding the sum of \$75,000.00, exclusive of interest and costs.

7. The current action pending in the Court of Common Pleas of Allegheny County, Pennsylvania is within the jurisdiction of the United States District Court for the Western District of Pennsylvania.

8. The United States District Court for the Western District of Pennsylvania has original jurisdiction of this action pursuant to 28 U.S.C. § 1332 insomuch as the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.

9. This action is removable from the Court of Common Pleas of Allegheny County, Pennsylvania pursuant to the provisions of 28 U.S.C. § 1441 *et seq.* and venue is proper in this Court because it is the district court for the district in which Plaintiff’s cause of action arose.

10. Concurrent with the filing of this Notice of Removal, Defendants have filed a Notice of Filing of Notice of Removal with the Prothonotary of the Court of Common Pleas of Allegheny County, Pennsylvania, advising that Defendants have removed this action to the United States District Court for the Western District of Pennsylvania.

11. In filing this Notice of Removal, Defendants do not waive any affirmative defenses it may assert in this action.

WHEREFORE, Defendants, Malone Bussing Services, Steve Malone and Teresa Darden, pray that this case be removed from the Court of Common Pleas of Allegheny County, Pennsylvania to the United States District Court for the Western District of Pennsylvania.

Respectfully submitted,

PION, NERONE, GIRMAN, WINSLOW & SMITH, P.C.

By: /s/ Paul A. Custer

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Counsel for Defendants

CERTIFICATE OF SERVICE

I, Paul A. Custer, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Removal was served upon counsel of record via electronic mail, this 23rd day of January, 2019 as follows:

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(Counsel for Plaintiff)

PION, NERONE, GIRMAN, WINSLOW & SMITH, P.C.

By: /s/ Paul A. Custer
Paul A. Custer, Esquire